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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/043,439

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David B. Lektion

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05/19/2006

IBM Corporation

T81/503

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EXAMINER

REILLY, SEAN M

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/043,439	<b>Applicant(s)</b> LECTION ET AL.	
	<b>Examiner</b> Sean Reilly	<b>Art Unit</b> 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-5, 7-17, 22-25, 27-37 and 42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-37 and 42 is/are allowed.
- 6) ☒ Claim(s) 2-5, 7-17, 22 and 24 is/are rejected.
- 7) ☒ Claim(s) 23 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

This Office action is in response to Applicant's amendment and request for reconsideration filed on March 20, 2006. Claims 2-5, 7-17, 22-25, 27-37 and 42 are presented for further examination. After further search and consideration some the previously allowable/allowed claims are no longer deemed allowable. Accordingly the finality of the office action mailed December 1, 2005 is withdrawn and prosecution is reopened.

#### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. **Claims 2-5 and 7-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**
2. Claims 2-5 and 7-17 are directed to neither a "method" nor a "system," but rather embraces or overlaps two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only (see *Ex parte Lyell*, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990)). For example with reference to claim 2, Applicant recites both method steps (receiving...creating...publishing) and system structure definitions ("wherein the topic is a category by which messages in the messaging service are sorted, wherein the type of the task is one of an edit task for modifying an unlocked node and a locking task for locking an unlocked node."). Similar rationale applies to claims 3-5 and 7-17. Thus, claims 2-5 and 7-17 are directed to non-statutory subject matter.

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Applicant may overcome this 101 rejection and the 112 2<sup>nd</sup> ¶ rejection below by redrafting the claim language such that each limitation is a positive recitation of a method step directly required for “processing shared data” as recited in the claim preamble.

In the interest of compact prosecution and for the purposes of a prior art rejection, claims 2-5 and 7-17 have been rejected below under the presumption that claims 2-5 and 7-17 are intended to parallel claims 22-42.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**3. Claim 2-5 and 7-17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

4. Claims 2-5 and 7-17 each claim both a system and the method steps of using the system. For example with reference to claim 2, Applicant recites both method steps (receiving...creating...publishing) and system structure definitions (“wherein the topic is a category by which messages in the messaging service are sorted, wherein the type of the task is one of an edit task for modifying an unlocked node and a locking task for locking an unlocked node.”). Similar rationale applies to claims 3-5 and 7-17. A single claim which claims both an apparatus and the method steps of using the apparatus is indefinite. See *ex parte* Lyell, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990). Thus, claims 2-5 and 7-17 are indefinite.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**5. Claims 2, 4, 22, and 24 are rejected under 35 U.S.C. 102(e) as being unpatentable over Kettley et al. (U.S. Patent Number 6,842,763; hereinafter Kettley) and Elko et al. (U.S. Patent Number 6,862,595; hereinafter Elko). Note Kettley incorporates Elko by reference see Col 6, lines 61-67).**

6. With regard to claims 2, 4, 22, and 24, Kettley disclosed a data processing system for processing shared data comprising:

- a bus, a storage device, wherein the storage device contains computer usable code; a communications unit connected to the bus, wherein the processing unit executes the computer usable code to receive a request to perform a task on shared data (Col 6, lines 7-18);
- create a work item data message for the task (client related task; see inter alia Col 5, lines 37-44, 47-49, and Col 7, lines 48-64 describing various task examples);
- publish the work item message to a messaging service (shared queue lists, Col 8, lines 24-27) by posting the work item message to a topic of the message service based on a

type of the task, wherein the topic is a category by which messages in the messaging service are sorted (e.g. messages are sorted as uncommitted, committed, or intermediate, see the steps for processing a given transaction Col 8, lines 25-52; also refer to Elko columns 7 and 8 for an in-depth of discussion the associated message flow for a task within the queue lists) and wherein the type of task is one of an edit task for modifying an unlocked node (updating a database Col 7, lines 55-59) and a locking task for locking an unlocked node.

*Allowable Subject Matter*

7. Claims 23, 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 27-37 and 42 are allowed. These claims contain allowable subject matter because the specific limitations in each are not disclosed or suggested in the prior art of record. More specifically the prior art of record fails to disclose or render obvious in the context of messaging services which process work item messages 1) edit topics with a filter value set to all nodes wherein the edit topic is a category identifying non-transaction request for unlocked nodes or 2) transaction topics with a filter value set to a node originating the request, wherein the transaction topic is a category identifying transaction requests for locked nodes, in combination with all other limitations.

*Response to Arguments*

8. Applicant's arguments are noted however they are moot in view of the new grounds of rejection set forth.

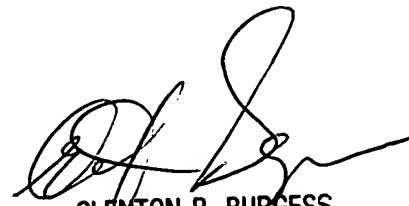
*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 15, 2006

  
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